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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of Section 9) MD Docket No. 94-19
of the Communications Act)
)
Assessment and Collection of)
Regulatory Fees for the 1994)
Fiscal Year)

COMMENTS OF COMSAT GENERAL CORPORATION

COMSAT General Corporation ("COMSAT General") herein submits its Comments in response to the Federal Communications Commission's Notice of Proposed Rulemaking ("Notice") in the above-captioned proceeding.

In its Notice, the Commission began the process of implementing Section 9 of the Communications Act of 1934, as amended ("Communications Act"), which was added by Section 6003(a) of the Omnibus Budget Reconciliation Act of 1993 ("Budget Act").¹ Section 9(a) of the Communications Act authorizes the Commission to assess and collect annual regulatory fees "to recover costs incurred in carrying out its enforcement activities, policy and rulemaking activities, user information services and international activities".²

¹ Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, Title VI, § 6002(a) 107 Stat. 397 (1993).

² 47 U.S.C. § 159.

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As the Commission believes that it is only empowered to review and adjust the new regulatory fees after FY 1994, it does not propose to make any changes in the amounts established by the statutory fee schedule at this time.³ However, the Commission has invited interested parties to comment on the proposal to adopt the fee amounts currently itemized in the statutory schedule of fees. Id.

In response to this invitation, COMSAT General, the licensee of the COMSTAR D-4, SBS-2, and SBS-3 domestic fixed-satellites, wishes to specifically comment on the \$65,000 annual fee, which is assessed on operators of domestic satellites operating in the geosynchronous orbit, pursuant to authority granted under Title III of the Communications Act.⁴ As discussed below, COMSAT General submits that the \$65,000 annual fee is excessive and inconsistent with the purposes of Section 9 of the Communications Act. The \$65,000 fee does not properly reflect the allocation of costs of performing the Commission's enforcement, policy and rulemaking, information services, and international functions in

³ Notice at para. 10. The Commission has stated that it intends to begin a separate proceeding, in connection with the assessment of fees for the 1995 fiscal year, through which it will seek comments concerning the allocation of performing the Commission's various activities among the regulated services. Notice at n. 12.

⁴ The annual fees are set forth in Appendix A of the Notice.

relation to the benefits provided by the Commission's activities.⁵

In this regard, we note that during the domestic satellite industry's embryonic years, it was unclear how the market for domestic satellite services would develop. In view of this uncertainty and perceived financial and operational risks, governmental regulation of the industry was necessarily pervasive. Working from a blank slate, regulatory standards were developed in the 1970's and 1980's to facilitate the efficient development of this national resource.⁶

Now, however, the domestic satellite industry is mature. Regulations which have been outdated by technological changes or whose purposes can be more efficiently achieved through the operation of a competitive marketplace, have been eliminated. As a result, government regulation of domestic satellites provides oversight of a few remaining policies of the 1980's. There is little, if any, perceived need for additional ground-breaking policy or rulemaking decisions. Instead, the Common Carrier Bureau

⁵ See House Conf. Rep. No. 103-213, 103rd Cong. 1st. Sess. reported at 7A U.S. Code Cong. and Admin. News 1088, 1188 (1993).

⁶ See, e.g., Domestic Communications Satellite Facilities, 22 F.C.C. 2d 86 (1970); Domestic Communications Satellite Facilities, 35 F.C.C. 2d 844 (1972), recon. in part, 38 F.C.C. 2d 665 (1972); Assignment of Orbital Locations to Space Stations in the Domestic Fixed Satellite Service, 84 F.C.C. 2d 584 (1980); Processing of Pending Space Station Applications in the Domestic Fixed-Satellite Service, 77 F.C.C. 2d 956 (1980); Domestic Fixed-Satellite Service, 30 F.C.C. 2d 1 (1982), recon. den. GTE Satellite Corp., 93 F.C.C. 2d 832 (1983).

is requested from time-to-time to fine tune marketplace forces with the minimum intrusive government regulation necessary to maintain the public interest. Similarly, the Commission's enforcement machinery is only rarely called upon to interdict market forces. Problems between satellite operators are generally resolved through cooperation and intersystem coordination in accordance with longstanding Commission precedent.⁷ Complaints from consumers and customers requiring Commission investigation and enforcement are also rare.⁸ Finally, while the Commission's international functions remain important to satellite operators, these functions are somewhat limited by the nature of the operator's ten-year license period and the ITU advance publication process.

In view of the minimal regulation required for the DOMSAT industry, the \$65,000 fee works an unnecessary hardship, particularly on operators of satellites which are operated beyond their nominal lifetimes. These satellites, such as the COMSTAR D-4, SBS-3 and SBS-2, remain fully viable as low-cost providers of full-time or occasional use commercial services and provide back-up capability and space segment used to support scientific testing or small business use.

⁷ See Amendment of Part 25 of the Commission's Rules to Reduce Alien Carrier Interference Between Fixed-Satellites at Reduced Orbital Spacings, 2 FCC Rcd 762 (1986).

⁸ Since launching its COMSTAR D-1 domestic fixed-satellite in 1976, COMSAT General is aware of no customer complaint against it requiring Commission intervention or enforcement activities.

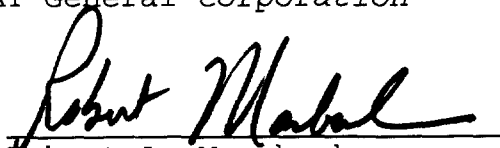
However, for COMSAT General, the annual \$65,000 fee acts as a disincentive for maintaining these satellites in orbit, since we cannot be certain that prospective revenues will sufficiently cover the fee and costs in a given fiscal year. Further, the excessive nature of the fee impedes and removes incentives for competitive price discounting, discourages the exploitation of innovative satellite technologies and harms consumers by resulting in higher prices for services which do not meet their needs. In our experience, this latter problem will prove particularly detrimental to start-up and small businesses requiring low-cost space segment to enable their enterprises to succeed.

As we have very briefly outlined above, implementation of the new annual fee schedule will have a significant impact on regulated entities and the public interest. We therefore request the Commission to consider the issues raised herein in this proceeding and in the separate proceeding to be established in connection with the assessment of fees for the 1995 fiscal year and beyond.

Respectfully submitted,

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